

REMARKS

Applicant thanks the Examiner for the allowance of various claims and the indication of allowability of other claims. To facilitate prosecution, claims 5-6, 8-9, and 21 have been amended to depend upon allowed independent claim 2 so that claims 5-9 and 21-23 depend directly or indirectly on allowed independent claim 2. Thus, claims 2-9, 20, and 21-26 are now in condition for allowance. Moreover, claims 1, 10, 12-13, 15-16, and 18-19 are canceled herein without prejudice or disclaimer. Claims 11, 14, and 17 were previously canceled without prejudice or disclaimer.

Substantively, in the Final Office Action dated April 6, 2009, claims 1, 5-9, and 21-23 were rejected under 35 USC §112, second paragraph for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claims 1, 5-6, and 10 were rejected under 35 USC §102(b) as allegedly being anticipated by Bajzath, et al. (US 6,144,644). Claim 7 was rejected under 35 USC §103(a) as allegedly being unpatentable over Bajzath. The Examiner failed to cite any references against claims 12-13, 15-16, and 18-19.

Applicants reserve the right to pursue the canceled claims in a continuation application filed at a later time and the cancellation of any of the claims or the lack of substantive argument to any canceled claim is not to be taken as any type of an admission.

In the Final Office Action, for example, the Examiner rejected claim 1 for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. With regard to claim 1, the Examiner stated: “it is not clear under what condition and to **serve what purpose** the ‘first call is initiated to said subscriber line in response to recognizing the busy condition’” (Final Office Action, p. 3) (Emphasis in original). Moreover, the Examiner stated: “it is unclear **what** is exactly or **who** is ‘recognizing a busy condition’ and why?” (Final Office Action, p. 2) (Emphasis in original) and “it is unclear **why** a first call is initiated to said subscriber line in response to recognizing the busy condition” (Final Office Action, p. 3) (Emphasis in original). The Examiner further rejected claims 5-9, and 21-23 for the same reasons as claim 1. As noted above, claim 1 has been canceled.

Nevertheless, Applicants respectfully disagree with the rejection. Applicants are under no duty to explain the purpose of each claim recitation, and the Examiner has failed to cite a basis in

the law for asking Applicants to do so. Rather, the MPEP clearly states that the Examiner is required to give the claims “their broadest reasonable interpretation consistent with the specification” (*see* MPEP 2111). Further, whether a claim is definite depends on “whether the scope of the claim is clear to a hypothetical person possessing the ordinary level of skill in the pertinent art” (*see* MPEP 2171). Not only has the Examiner failed to give the claims their broadest reasonable interpretation in light of the specification, the Examiner has further failed to explain how the claim language is unclear to one of ordinary skill in the art as required by the MPEP. For at least these reasons, Applicants respectfully request the Examiner to withdraw the rejection of claims 5-9 and 21-23, which are now dependent directly or indirectly on allowed claim 2.

CONCLUSION

All rejections have been addressed. In view of the above, the presently pending claims are believed to be in condition for allowance. Accordingly, reconsideration and allowance are respectfully requested and the Examiner is respectfully requested to pass this application to issue.

It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 65632-594 from which the undersigned is authorized to draw.

Dated: June 5, 2009

Respectfully submitted,

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